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May 27, 2020

BY ECF

Honorable Lewis J. Liman
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: S.F. v. NYC Dep't of Education, 20-CV-2121 (LJL)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel of the City of New York and the attorney recently assigned to represent Defendant New York City Department of Education ("DOE") in the above-referenced matter. Plaintiffs, the parents of a student with disabilities, assert claims under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and New York State law based on DOE's alleged failure to appoint an impartial hearing officer ("IHO") or to timely resolve their underlying due process complaint.

I write jointly on behalf of all parties to respectfully request: (1) an adjournment of the Initial Conference currently scheduled for June 3, 2020 at 10:00 a.m.; (2) a corresponding extension of time for the parties to submit their proposed Case Management Plan and Scheduling Order, until one week prior to adjournment date of the conference; and (3) an extension of time, until July 16, 2020, for DOE to respond to the Complaint. This is the first request for an adjournment of the Initial Conference and the second request for an enlargement of time to respond to the Complaint. Should the Court be available, the parties respectfully propose July 8, 14 or 15 for the adjournment date of the Initial Conference.

By Order dated March 17, 2020, the Court scheduled the Initial Conference and directed the parties to submit their proposed Case Management Plan and Scheduling Order one week earlier, which is today.¹ (See Dkt. No. 6.) By Order dated March 24, 2020, the Court granted DOE's first request for an extension of time, until June 1, 2020, to respond to the Complaint due to the COVID-19 public health emergency. (See Dkt. No. 11.)

The reason for the requested adjournment is that the parties believe that they can resolve the matter within the next 30 days, which would obviate the need for the conference. Specifically, should an IHO be assigned to Plaintiffs' underlying administrative case, Plaintiffs likely would voluntarily dismiss the instant federal action. The enlargement of time, therefore, would also enable Plaintiffs to voluntarily dismiss the case pursuant to Fed. R. Civ. P. 41(a)(1)(A) without a court order prior to Defendant's having responded to the Complaint.

Accordingly, the parties jointly respectfully request that the Court grant: (1) an adjournment of the Initial Conference currently scheduled for June 3, 2020 at 10:00 a.m.; (2) a corresponding extension of time for the parties to submit their proposed Case Management Plan and Scheduling Order; and (3) an extension of time, until July 16, 2020, for DOE to respond to the Complaint.

The parties thank the Court for its consideration of these requests.

Respectfully submitted,

/s/

Philip S. Frank
Assistant Corporation Counsel

cc: All counsel of record (via ECF)

Application GRANTED. The Initial Pretrial Conference is RESET to July 15, 2020 at 4:30 p.m. and will proceed telephonically. Parties are directed to call (888) 251-2909 and use access code 2123101. The proposed Case Management Plan and Scheduling Order shall be due one week prior. The deadline for DOE to respond to the Complaint is EXTENDED until July 16, 2020.

5/28/2020


LEWIS J. LIMAN
United States District Judge

¹ The parties apologize to the Court for the lateness of this request.